

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GEORGY USOV,

Case No.:13 Civ. 818 (RWS)

Plaintiff,

ANSWER

-against-

MARC LAZAR and MARC LAZAR, INC.,

Defendants

All claims against defendant Marc Lazar (“Lazar”) having been dismissed by order of the Court dated June 18, 2013, Marc Lazar, Inc. (“Defendant”), by its attorney, Robinson Brog Leinwand Greene Genovese & Gluck P.C., hereby Answers Plaintiff’s Complaint dated January 30, 2013 (the “Complaint”) as follows:

AS TO ALLEGATIONS CONCERNING THE NATURE OF THE ACTION

1. Paragraph 1 of the Complaint contains no allegations requiring a response. To the extent that a response is required, Defendant denies the allegations contained in paragraph 1 of the Complaint.

AS TO ALLEGATIONS CONCERNING THE PARTIES

2. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the Complaint.

3. No response is required to the allegations contained in paragraph 3 of the Complaint since all claims against Lazar were dismissed pursuant to the order of the Court dated June 18, 2013.

4. Defendant admits the allegations contained in paragraph 4 of the Complaint.

AS TO ALLEGATIONS CONCERNING JURISDICTION AND VENUE

5. To the extent that the allegations contained in paragraph 5 of the Complaint call for legal or factual conclusions, no response is required. To the extent that a response is required, Defendant denies the allegations contained in paragraph 5 of the Complaint except as to such causes of action which survived the order of the Court dated June 18, 2013.

6. To the extent that the allegations contained in paragraph 6 of the Complaint call for legal or factual conclusions, no response is required. To the extent that a response is required, Defendant denies the allegations contained in paragraph 6 of the Complaint.

7. To the extent that the allegations contained in paragraph 7 of the Complaint call for legal or factual conclusions, no response is required. To the extent that a response is required, Defendant denies the allegations contained in paragraph 7 of the Complaint.

8. To the extent that the allegations contained in paragraph 8 of the Complaint call for legal or factual conclusions, no response is required. To the extent that a response is required, Defendant denies the allegations contained in paragraph 8 of the Complaint and respectfully refers this Court to the stated statutes for their content, meaning and import.

AS TO ALLEGATIONS ENTITLED "UNDERLYING FACTS"

9. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 9 of the Complaint.

10. Defendant denies the allegations contained in paragraph 10 of the Complaint. No response is required as to the allegations contained in paragraph 10 of the Complaint with respect to Lazar since all claims against him were dismissed pursuant to the order of the Court dated June 18, 2013.

11. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 11 of the Complaint.

12. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 12 of the Complaint.

13. Defendant lacks information or knowledge sufficient to form a belief as to the truth of the allegations contained in the first sentence of paragraph 13 of the Complaint, and denies the remaining allegations. No response is required as to the allegations contained in paragraph 13 of the Complaint with respect to Lazar since all claims against him were dismissed pursuant to the order of the Court dated June 18, 2013.

14. Defendant denies the allegations contained in paragraph 14 of the Complaint, except admits that the stone was re-cut to increase its value. No response is required as to the allegations contained in paragraph 14 of the Complaint with respect to Lazar since all claims against him were dismissed pursuant to the order of the Court dated June 18, 2013.

15. Defendant denies the allegations contained in paragraph 15 of the Complaint. No response is required as to the allegations contained in paragraph 15 of the Complaint with respect to Lazar since all claims against him were dismissed pursuant to the order of the Court dated June 18, 2013.

16. Defendant admits the allegations contained in paragraph 16 of the Complaint. No response is required as to the allegations contained in paragraph 16 of the Complaint with respect to Lazar since all claims against him were dismissed pursuant to the order of the Court dated June 18, 2013.

17. Defendant denies the allegations contained in paragraph 17 of the Complaint. No response is required as to the allegations contained in paragraph 17 of the Complaint with respect

to Lazar since all claims against him were dismissed pursuant to the order of the Court dated June 18, 2013.

18. Defendant denies the allegations contained in paragraph 18 of the Complaint except admits on or about March 2012, Defendant informed Elena Harris of the sale of a diamond. No response is required as to the allegations contained in paragraph 18 of the Complaint with respect to Lazar since all claims against him were dismissed pursuant to the order of the Court dated June 18, 2013.

19. Defendant denies the allegations contained in paragraph 19 of the Complaint except admits on or about April 2012, Defendant informed Elena Harris of the sale of two diamonds. No response is required as to the allegations contained in paragraph 19 of the Complaint with respect to Lazar since all claims against him were dismissed pursuant to the order of the Court dated June 18, 2013.

20. Defendant denies the allegations contained in paragraph 20 of the Complaint. No response is required as to the allegations contained in paragraph 20 of the Complaint with respect to Lazar since all claims against him were dismissed pursuant to the order of the Court dated June 18, 2013.

21. Defendant denies the allegations contained in paragraph 21 of the Complaint. No response is required as to the allegations contained in paragraph 21 of the Complaint with respect to Lazar since all claims against him were dismissed pursuant to the order of the Court dated June 18, 2013.

22. Defendant denies the allegations contained in paragraph 22 of the Complaint. No response is required as to the allegations contained in paragraph 22 of the Complaint with respect

to Lazar since all claims against him were dismissed pursuant to the order of the Court dated June 18, 2013.

23. Defendant denies the allegations contained in paragraph 23 of the Complaint except admits that Elena Harris met with Lazar. No response is required as to the allegations contained in paragraph 23 of the Complaint with respect to Lazar since all claims against him were dismissed pursuant to the order of the Court dated June 18, 2013.

24. Defendant denies the allegations contained in paragraph 24 of the Complaint. No response is required as to the allegations contained in paragraph 24 of the Complaint with respect to Lazar since all claims against him were dismissed pursuant to the order of the Court dated June 18, 2013.

25. Defendant denies the allegations contained in paragraph 25 of the Complaint. No response is required as to the allegations contained in paragraph 25 of the Complaint with respect to Lazar since all claims against him were dismissed pursuant to the order of the Court dated June 18, 2013.

26. Defendant denies the allegations contained in paragraph 26 of the Complaint. No response is required as to the allegations contained in paragraph 26 of the Complaint with respect to Lazar since all claims against him were dismissed pursuant to the order of the Court dated June 18, 2013.

27. Defendant denies the allegations contained in paragraph 27 of the Complaint. No response is required as to the allegations contained in paragraph 27 of the Complaint with respect to Lazar since all claims against him were dismissed pursuant to the order of the Court dated June 18, 2013.

28. Defendant denies the allegations contained in paragraph 28 of the Complaint. No response is required as to the allegations contained in paragraph 28 of the Complaint with respect to Lazar since all claims against him were dismissed pursuant to the order of the Court dated June 18, 2013.

AS AND FOR AN ANSWER TO THE FIRST CAUSE OF ACTION

29. Defendant repeats, realleges and incorporate its prior responses to the allegations contained in paragraphs 1 through 28 of the Complaint, as if fully set forth herein in response to paragraph 29.

30. Defendant denies the allegations contained in paragraph 30 of the Complaint. No response is required as to the allegations contained in paragraph 30 of the Complaint with respect to Lazar since all claims against him were dismissed pursuant to the order of the Court dated June 18, 2013.

31. Defendant denies the allegations contained in paragraph 31 of the Complaint. No response is required as to the allegations contained in paragraph 31 of the Complaint with respect to Lazar since all claims against him were dismissed pursuant to the order of the Court dated June 18, 2013.

32. Defendant denies the allegations contained in paragraph 32 of the Complaint. No response is required as to the allegations contained in paragraph 32 of the Complaint with respect to Lazar since all claims against him were dismissed pursuant to the order of the Court dated June 18, 2013.

AS AND FOR AN ANSWER TO THE SECOND CAUSE OF ACTION

33. Defendant repeats, realleges and incorporates its prior responses to the allegations contained in paragraphs 1 through 32 of the Complaint, as if fully set forth herein in response to paragraph 33 of the Complaint.

34. Defendant denies the allegations contained in paragraph 34 of the Complaint. No response is required as to the allegations contained in paragraph 34 of the Complaint with respect to Lazar since all claims against him were dismissed pursuant to the order of the Court dated June 18, 2013.

35. Defendant denies the allegations contained in paragraph 35 of the Complaint. No response is required as to the allegations contained in paragraph 35 of the Complaint with respect to Lazar since all claims against him were dismissed pursuant to the order of the Court dated June 18, 2013.

36. Defendant denies the allegations contained in paragraph 36 of the Complaint. No response is required as to the allegations contained in paragraph 36 of the Complaint with respect to Lazar since all claims against him were dismissed pursuant to the order of the Court dated June 18, 2013.

37. Defendant denies the allegations contained in paragraph 37 of the Complaint. No response is required as to the allegations contained in paragraph 37 of the Complaint with respect to Lazar since all claims against him were dismissed pursuant to the order of the Court dated June 18, 2013.

AS AND FOR AN ANSWER TO THE THIRD CAUSE OF ACTION

38. Defendant repeats, realleges and incorporates its prior responses to the allegations contained in paragraphs 1 through 37 of the Complaint, as if fully set forth herein in response to paragraph 38 of the Complaint.

39. No response is required as the Third Cause of Action was dismissed pursuant to the order of the Court dated June 18, 2013.

40. No response is required as the Third Cause of Action was dismissed pursuant to the order of the Court dated June 18, 2013.

41. No response is required as the Third Cause of Action was dismissed pursuant to the order of the Court dated June 18, 2013.

AS AND FOR AN ANSWER TO THE FOURTH CAUSE OF ACTION

42. Defendant repeats, realleges and incorporates its prior responses to the allegations contained in paragraphs 1 through 41 of the Complaint, as if fully set forth herein in response to paragraph 42 of the Complaint.

43. No response is required as the Fourth Cause of Action was dismissed pursuant to the order of the Court dated June 18, 2013.

44. No response is required as the Fourth Cause of Action was dismissed pursuant to the order of the Court dated June 18, 2013.

45. No response is required as the Fourth Cause of Action was dismissed pursuant to the order of the Court dated June 18, 2013.

AS AND FOR AN ANSWER TO THE FIFTH CAUSE OF ACTION

46. Defendant repeats, realleges and incorporates its prior responses to the allegations contained in paragraphs 1 through 45 of the Complaint, as if fully set forth herein in response to paragraph 46 of the Complaint.

47. No response is required as the Fifth Cause of Action was dismissed pursuant to the order of the Court dated June 18, 2013.

48. No response is required as the Fifth Cause of Action was dismissed pursuant to the order of the Court dated June 18, 2013.

49. No response is required as the Fifth Cause of Action was dismissed pursuant to the order of the Court dated June 18, 2013.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

Plaintiff has not stated a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

Defendant has a defense based upon payment.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

Defendant has a defense based upon documentary evidence.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

Plaintiff has failed to name one or more necessary parties and the Complaint should not proceed without such party.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

Defendant has a defense based on the fact that Plaintiff does not own the diamonds.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred because of the doctrine of unclean hands.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

Plaintiffs are barred from any recovery by the Statute of Frauds.

WHEREFORE, Defendants demand judgment dismissing the Complaint with prejudice and granting Defendants their costs and expenses of this action, including reasonable attorneys' fees, incurred in this action, and such other and further relief as this Court may deem just, proper and equitable.

Dated: New York, New York
July 9, 2013

ROBINSON BROG LEINWAND
GREENE GENOVESE & GLUCK P.C.

By: /s/ Michael A. Eisenberg
David C. Burger
Michael A. Eisenberg
Attorney for Defendants
875 Third Avenue, 9th Floor
New York, New York 10022
(212) 603-6300
dcb@robinsonbrog.com
mae@robinsonbrog.com